

Resolution No.: 15-132
Introduced: April 22, 2003
Adopted: April 22, 2003

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 11-02 AM, Moderately Priced Dwelling Unit Program Maximum Rental Rates for Garden Apartments

Background

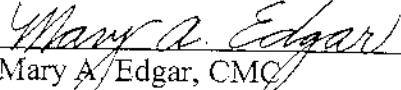
1. On April 1, 2003, the County Council received Regulation 11-02 AM, Moderately Priced Dwelling Unit Program Maximum Rental Rates for Garden Apartments, from the County Executive.
2. The regulation must be reviewed under method (1) of Section 2A-15 of the Code.
3. Under method (1), this regulation does not take effect the County Council approves it.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 11-02 AM, Moderately Priced Dwelling Unit Program Maximum Rental Rates for Garden Apartments, is approved.

This is a correct copy of Council action.



Mary A. Edgar, CMC
Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

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| | |
|------------------------------------------------------------------------------|--------------------------|
| Subject Maximum Rental Rates for Moderately Priced Housing Program | Number 11-02AM |
| Originating Department Department of Housing and Community Affairs | Effective Date |

Montgomery County Regulation on:

MODERATELY PRICED DWELLING UNIT PROGRAM

MAXIMUM RENTAL RATES FOR GARDEN APARTMENTS

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Issued by: County Executive

Supersedes: Executive Regulation No. 44-88

Council Review: Method 1

Register Vol.19, No. 7

Comment Deadline: July 31, 2002

Effective Date:

Sunset Date:

SUMMARY:

This Executive Regulation establishes the maximum rental rates for garden apartments rented under the provisions of Chapter 25A of the Montgomery County Code, 1994, as amended.

ADDRESSES:

Information and copies of this regulation are available from the Department of Housing and Community Affairs (DHCA), Division of Housing and Code Enforcement, 100 Maryland Avenue, 4th Floor, Rockville, Maryland 20850.

STAFF CONTACT:

Eric B. Larsen, Program Administrator
Telephone No.: 240-777-3713

BACKGROUND INFORMATION:

Section 25A-7(b) of the Montgomery County Code, 1994, as amended, requires that the County Executive issue regulations establishing maximum permitted rental rates for moderately priced dwelling units (MPDUs). This regulation establishes the maximum rental rates permitted for the initial and subsequent rental of a garden apartment MPDU.



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Section 1

Definitions

- 1.1 Unless otherwise indicated, the words or phrases used in this regulation have the same meanings as contained in Section 25A-3, Definitions of the Montgomery County Code, 1994, as amended.
- 1.2 Eligibility Certificate means a certificate, valid for a specified period of time, which is issued by the Department to eligible persons and certifies their eligibility to rent an MPDU in accordance with the Department's procedures.
- 1.3 Garden Apartment means a multifamily dwelling unit structure that is four (4) stories or fewer in height.
- 1.4 Moderately Priced Housing Law (MPH Law) means Chapter 25A of the Montgomery County Code, 1994, as amended.
- 1.5 Offering Notice means the notice sent to eligible persons which contains the date the priority marketing period begins.
- 1.6 Priority Marketing Period means the period for marketing MPDUs as specified in Section 25A-8(a)(5) of the MPH Law.

Section 2

Applicability & Income Limits

- 2.1 The rents contained in this regulation are applicable to garden apartments constructed and rented through the MPDU program after the effective date of this regulation.
- 2.2 The rental rates for MPDUs offered for rent are those in effect at the time the rental offering agreement is approved by the Department.
- 2.3 The income limits for eligible persons are those established for the MPDU program by the County Executive through separate Executive Regulations. The current income limits are listed below. The income limits are automatically adjusted to the limits contained in the Executive Regulation, Maximum Income Limits for Eligibility for the MPDU Program, that is in effect when the MPDUs are offered for rent.



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Family Size

Income Limit

| | |
|------------------|----------|
| 1 person | \$38,000 |
| 2 people | \$42,000 |
| 3 people | \$47,000 |
| 4 people | \$52,000 |
| 5 or more people | \$56,000 |

Section 3

Maximum Allowable Rents for MPDUs

- 3.1 The method for computing the maximum allowable monthly rents for garden apartment MPDUs is described below. Rental rates will be computed based on the income limits for the MPDU program in effect at the time the MPDUs are offered for rent. The income for the rent calculation is based on one and one half (1½) people per bedroom.

Number of Bedrooms

Income for Rent Calculation

| | |
|-------------------------|----------|
| Efficiency (0 bedrooms) | \$38,000 |
| 1 Bedroom | \$40,000 |
| 2 Bedrooms | \$47,000 |
| 3 Bedrooms | \$54,000 |

The income for each unit size is multiplied by twenty-five percent (25%) then divided by 12 and rounded to the nearest whole number which is evenly divided by five (5) to establish the rent for the unit, excluding utilities (example: for a one bedroom unit the calculation is as follows: (\$40,000 x .25 = \$10,000 divided by 12 = \$833.00 rounded to 835.00).

- 3.2 The current maximum rental rates by unit size are listed below. The rental maximum rates will be automatically adjusted in accordance with the change in the approved MPDU income limits. The Department must maintain up to date information on income and rental limits. The tenant is responsible for paying all utility charges.



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Unit Size

Maximum Monthly Rent (Excluding Utilities)

| | |
|------------|---------------|
| Efficiency | \$790/month |
| 1 Bedroom | \$835/month |
| 2 Bedrooms | \$980/month |
| 3 Bedrooms | \$1,125/month |

- 3.3 The maximum rental rate for new garden apartment MPDUs that contain unusual amenities, site conditions or construction costs may be adjusted based on a determination by the Director of the Department of Housing and Community Affairs of all the ordinary, necessary, and reasonable costs to construct, market, and operate the MPDU rental units. In setting the maximum rent, the Director must consider the current general market and economic conditions of the County's rental market. The Director must obtain his information from public sources familiar with the rental market in the County.
- 3.4 The rental rate for currently rented MPDUs will be adjusted annually by the Director in accordance with the change in the Consumer Price Index and consider the criteria set forth in Section 3.3. If the apartment development is financed through a Federal or State affordable housing program, then the requirements of that program will supercede this regulation.
- 3.5 Utility charges that are paid by the applicant may be added to the MPDU rental rate. Estimates of annual expenses for the utilities must be certified by a registered engineer or by the appropriate utility company. After the first year of operation, utility charges will be based on the actual, average cost of the utility expenses for the previous 12 months.
- 3.6 Laundry washer and dryer equipment must be provided in each MPDU unit unless this equipment is not provided in the market rate units. No increase in rent is allowed unless the market rate units are separately charged and the increase is limited to the same fee that the market rate apartments are charged.
- 3.7 The applicant will not be permitted to charge a fee for non-structured, automobile parking to MPDU tenants. Structured parking, garage or other enclosed spaces may be offered as an option to the MPDU occupants at the monthly rate normally charged by the applicant.



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- 3.8 The Director may adjust the rental rates for rental apartment developments that provide services, amenities, or design features to all tenants which cannot be made optional to the tenants of the MPDUs on a fee basis
- 3.9 Rental rates for MPDUs in elderly projects will be established based on the criteria contained in Section 3.3. Fees for additional services will be established by the Department on a case by case basis after consideration of supporting documentation of the development costs and operating expenses provided by the applicant.

Section 4 Rental Procedures

- 4.1 During the priority marketing period the applicant must rent the MPDUs to persons in conformance with the income limits and rental rates established in this regulation or as adjusted for subsequent changes in the Executive Regulation establishing the MPDU income limits.
- 4.2 A person or household seeking to rent an MPDU must apply to the Department to be certified as eligible for participation in the program. To be eligible, a person's or household's income must not exceed the program income limits established in Section 2.3 or in the Executive Regulation establishing the MPDU income limits in effect at the time the apartment is offered for rent.
- 4.3 The priority marketing period begins on the date contained in the offering notice to eligible persons. If a lottery drawing is held to determine a marketing list of eligible persons, the priority marketing period begins three business days after the date of the lottery drawing.
- 4.4 If the MPDU units are not rented to eligible persons during the priority marketing period and the applicant has demonstrated to the Department's satisfaction that a good faith effort was made to rent the units to eligible persons, the applicant may then rent the units to the general public at the MPDU rental rate after receiving prior written approval from the Department.
- 4.5 The priority marketing period may be extended by the Department if eligible persons are available to rent the MPDUs. If construction or occupancy of the MPDUs is phased over a period of time, the priority marketing period begins when the MPDU is offered for rent. Each phase of the development must have its own priority marketing period.



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- 4.6 The MPDUs must be ready for occupancy within 120 days of the beginning of the priority marketing period.
- 4.7 The lease agreements for MPDUs, other than those leased to the Housing Opportunities Commission (HOC) or designated nonprofit housing corporation, as defined in Section 25A-8(a)(8), must include the provisions listed below.
- a. The tenant must occupy the unit as his or her primary place of residence and must not sublet the unit.
 - b. The tenant must provide income and family composition information to the applicant every year for recertification purposes. The documents that must be provided are federal income tax forms for the last two years and a copy of a current pay check for all employed household members and the current household composition.
 - c. The tenant must provide the recertification information within 30 days of receiving the recertification form from the applicant. If the tenant fails to provide the recertification information within the 30 day period the tenant must vacate the unit within 60 days of receiving notification from the applicant that the recertification form and required documentation was not received.
 - d. The tenant must vacate the MPDU if the tenant's income exceeds by twenty percent (20%) or more the maximum eligible income necessary to qualify as an eligible person. The applicant must take action necessary to have the tenant vacate the MPDU within six months of receiving information that the tenant's income exceeds the maximum permitted income limit. The applicant may substitute another unit with the same number of bedrooms for the existing MPDU and permit the tenant to occupy their present unit at the market rent. A new covenant form must be recorded subjecting the substitute unit to the MPDU covenants. If the development is subject to a regulatory agreement as part of a federal financing program, the provisions contained in that agreement supercede this regulation.



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- 4.8 The applicant must use the multi-family model lease approved by the Department subject to the exceptions listed in Section 4.7.
- 4.9 The applicant must supply the information listed below in a format acceptable to the Department on an annual basis:
 - a. The number of MPDUs, with bedroom counts, that are leased to eligible persons, the Commission, and designated nonprofit housing corporations.
 - b. For each MPDU, the tenant's name, household size, and total household income as of the date of the lease.
 - c. A statement that to the best of the applicant's information and knowledge, the tenants who are leasing the MPDUs meet the eligibility criteria.
 - d. A copy of each new or revised tenant certification form obtained since the last annual report.
- 4.10 The applicant must send a copy of the initial and all renewal leases to the Department within 30 days of signing the lease.
- 4.11 If the applicant is required to report tenant occupancy information pursuant to a governmental financing regulatory agreement, then that report may be substituted for the information required in Section 4.9.
- 4.12 If the applicant has an MPDU to be re-rented, the applicant must offer the unit to eligible persons for a period of sixty (60) days before renting the MPDU to the general public at the MPDU rental rate. The sixty (60) day period will commence when the Department receives written notice from the applicant of the unit's availability to be leased.



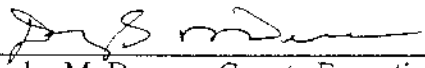
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Section 5 Effective Date

- 5.1 The Executive Regulation will become effective on the date it is approved by the Montgomery County Council.

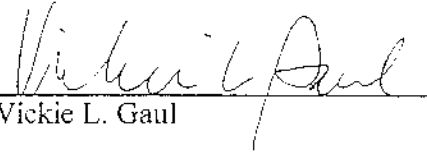


Douglas M. Duncan, County Executive

3/28/03

Date

Approved to as Form and Legality
Office of the County Attorney



Vickie L. Gaul

3/21/03

Date

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